



2009 SENATE BILL 216

1 **AN ACT** *to renumber and amend* 461.02 (1) and 461.02 (4); *to amend* 461.02
2 (1) (title), 461.02 (2) (intro.), 461.02 (3) (a), 461.02 (3) (b), 461.02 (5), 461.02 (6),
3 461.02 (7) (b), 461.02 (8) and 461.04 (1) (intro.); *to repeal and recreate* 461.02
4 (4) (title); and *to create* 440.08 (2) (a) 63p. and 461.02 (1) (b) of the statutes;
5 **relating to:** professional employer organizations and professional employer
6 groups.

Analysis by the Legislative Reference Bureau

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

7 **SECTION 1.** 440.08 (2) (a) 63p. of the statutes is created to read:
8 440.08 **(2)** (a) 63p. Professional employer organization or professional
9 employer group: July 31 of each year.
10 **SECTION 2.** 461.02 (1) (title) of the statutes, as created by 2007 Wisconsin Act
11 189, is amended to read:

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1 461.02 (1) (title) REGISTRATION REQUIRED; USE OF TITLES.

2 **SECTION 3.** 461.02 (1) of the statutes, as created by 2007 Wisconsin Act 189, is
3 renumbered 461.02 (1) (a) and amended to read:

4 461.02 (1) (a) No person may ~~offer or provide~~ operate as a professional employer
5 ~~services~~ organization or professional employer group, advertise that the person is a
6 professional employer organization or that ~~the person provides professional~~
7 ~~employer services~~ professional employer group, or otherwise hold itself out as a
8 professional employer organization or professional employer group unless the
9 person first registers with the department as provided in this section. ~~To register~~
10 ~~under this section, a person shall file the registration form under sub. (2) and pay the~~
11 ~~initial credential fee determined by the department under s. 440.03 (9) (a).~~

12 **SECTION 4.** 461.02 (1) (b) of the statutes, as created by 2007 Wisconsin Act 189,
13 is created to read:

14 461.02 (1) (b) No person may designate as the person's title, or append to the
15 person's name the words or letters, "professional employer organization," "P.E.O.,"
16 "professional employer group," "P.E.G.," "staff leasing company," "registered staff
17 leasing company," "employee leasing company," or "administrative employer," or
18 other similar titles or letters, or use these titles, words, or letters to describe the
19 person's business or represent that the person or the person's business is registered
20 or licensed as "professional employer organization," "P.E.O.," "professional employer
21 group," "P.E.G.," "staff leasing company," "registered staff leasing company,"
22 "employee leasing company," or "administrative employer," unless the person is
23 registered by the department under this chapter.

24 **SECTION 5.** 461.02 (2) (intro.) of the statutes, as created by 2007 Wisconsin Act
25 189, is amended to read:

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1 461.02 (2) REGISTRATION APPLICATION FORM. (intro.) ~~To apply~~ Except as provided
2 in sub. (7) (b), an applicant for registration under this section, ~~an applicant shall file~~
3 ~~with~~ submit to the department a an application for registration on a form prescribed
4 by the department, together with the registration fee determined by the department
5 under s. 440.03 (9) (a), that contains all of the following information:

6 **SECTION 6.** 461.02 (3) (a) of the statutes, as created by 2007 Wisconsin Act 189,
7 is amended to read:

8 461.02 (3) (a) Each professional employer organization or professional
9 employer group that is operating in this state on July 1, 2009, shall register with the
10 department by no later than 180 days after that date. ~~An initial registration under~~
11 ~~this paragraph is valid until 180 days after the end of the first fiscal year of the~~
12 ~~registrant that ends more than one year after July 1, 2009.~~

13 **SECTION 7.** 461.02 (3) (b) of the statutes, as created by 2007 Wisconsin Act 189,
14 is amended to read:

15 461.02 (3) (b) Any person that is not engaged in the business of providing
16 operating as a professional employer services organization or a professional
17 employer group in this state on July 1, 2009, shall register with the department
18 before engaging in that business operating as a professional employer organization
19 or professional employer group in this state. ~~An initial registration under this~~
20 ~~paragraph is valid until 180 days after the end of the first fiscal year of the registrant~~
21 ~~that ends after the date of initial registration.~~

22 **SECTION 8.** 461.02 (4) (title) of the statutes, as created by 2007 Wisconsin Act
23 189, is repealed and recreated to read:

24 461.02 (4) (title) REGISTRATION RENEWAL; EXTENSION FOR FILING UPDATED
25 FINANCIAL STATEMENT.

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1 **SECTION 9.** 461.02 (4) of the statutes, as created by 2007 Wisconsin Act 189, is
2 renumbered 461.02 (4) (a) and amended to read:

3 461.02 **(4)** (a) ~~A~~ On or before the applicable renewal date specified under s.
4 440.08 (2) (a), and except as provided in par. (b) and sub. (7) (b), a registrant that
5 wishes to renew its registration shall, ~~by no later than 180 days after the end of the~~
6 registrant's fiscal year, ~~renew that registration by notifying~~ submit to the
7 department of any changes in the information specified in sub. (2) (a) to (e), filing,
8 on forms furnished by the department, a renewal application, together with an
9 updated financial statement as described in sub. (2) (f), and paying the renewal
10 credential fee determined by the department under s. 440.03 (9) (a). A renewal of
11 registration is valid for one year after the date of renewal.

12 **(b)** A registrant may apply to the department for an extension of the time within
13 which to ~~renew a registration~~ submit the updated financial statement required
14 under par. (a) by providing with the renewal application a letter from the certified
15 public accountant who is auditing the registrant's financial statement stating the
16 reasons for the delay and the anticipated completion date of the audit. ~~A renewal~~
17 ~~registration is valid for one year after the date of renewal.~~

18 **SECTION 10.** 461.02 (5) of the statutes, as created by 2007 Wisconsin Act 189,
19 is amended to read:

20 461.02 **(5)** LIMITED REGISTRATION. (a) ~~A~~ Except as provided in sub. (7) (b), a
21 professional employer organization or professional employer group that is domiciled
22 outside this state, that is registered or licensed as a professional employer
23 organization or professional employer group in another state, that does not maintain
24 an office in this state or directly solicit clients that are located or domiciled in this
25 state, and that has no more than 50 employees performing services for clients in this

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1 state on any given day may apply for limited registration under this section by filing
2 with the department a limited registration form prescribed by the department and
3 paying the initial credential fee determined by the department under s. 440.03 (9)
4 (a). An applicant that is seeking limited registration shall, in addition to the
5 information provided under sub. (2), provide the department with information and
6 documentation showing that the applicant meets the qualifications specified in this
7 paragraph for limited registration.

8 (b) ~~A~~ Except as provided in sub. (7) (b), a professional employer organization
9 or professional employer group seeking limited registration that has employees
10 performing services for clients in this state on July 1, 2009, shall register with the
11 department as provided in sub. (3) (a), and the initial limited registration shall be
12 valid as provided in sub. (3) (a).

13 (c) ~~A~~ Except as provided in sub. (7) (b), a professional employer organization
14 or professional employer group seeking limited registration that does not have
15 employees performing services for clients in this state on July 1, 2009, shall register
16 with the department as provided in sub. (3) (b), before contracting with a client in this
17 state, and the initial limited registration shall be valid as provided in sub. (3) (b).

18 (d) ~~A registrant~~ Except as provided in sub. (7) (b), a professional employer
19 organization or professional employer group registered under this subsection that
20 wishes to renew its limited registration shall, in addition to complying with sub. (4),
21 provide the department with information and documentation showing that the
22 registrant professional employer organization or professional employer group
23 continues to meet the qualifications specified in par. (a) for limited registration, and
24 the limited registration shall be valid as provided in sub. (4).

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1 (e) A ~~limited registrant~~ professional employer organization or professional
2 employer group registered under this subsection is not required to comply with the
3 financial capability requirement under s. 461.03.

4 **SECTION 11.** 461.02 (6) of the statutes, as created by 2007 Wisconsin Act 189,
5 is amended to read:

6 **461.02 (6) PROFESSIONAL EMPLOYER GROUP REGISTRATION.** ~~Two~~ Except as
7 provided in sub. (7) (b), 2 or more professional employer organizations that are part
8 of a professional employer group may register under this section or renew a
9 registration by providing the information required under sub. (2), (4), or (5) on a
10 combined or consolidated basis, paying the initial credential or renewal fee
11 determined by the department under s. 440.03 (9) (a), and guaranteeing each other's
12 obligations. If a professional employer group provides a combined or consolidated
13 financial statement under sub. (2) (f) that includes the financial condition of entities
14 that are not part of the professional employer group, the person controlling the
15 professional employer group shall guarantee the obligations of the professional
16 employer organizations in the professional employer group.

17 **SECTION 12.** 461.02 (7) (b) of the statutes, as created by 2007 Wisconsin Act 189,
18 is amended to read:

19 **461.02 (7) (b)** The department may by rule provide for registration of a
20 professional employer organization or professional employer group without
21 compliance with sub. (2), (4), (5), or (6), s. 461.03, or rules promulgated under s.
22 461.06 on acceptance by the department of assurance provided by a bonded,
23 independent, and qualified assurance organization that has been approved by the
24 department that provides assurance satisfactory to the department that the
25 professional employer organization or professional employer group is qualified to

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1 ~~engage in the business of providing~~ operate as a professional employer services
2 organization or a professional employer group in this state.

3 **SECTION 13.** 461.02 (8) of the statutes, as created by 2007 Wisconsin Act 189,
4 is amended to read:

5 461.02 **(8)** ISSUANCE OF REGISTRATION. ~~On receipt of an application for~~
6 ~~registration or for renewal of a registration under subs. (3) to (7) and of the initial~~
7 ~~credential fee or renewal fee determined by the department under s. 440.03 (9) (a),~~
8 ~~the~~ The department shall investigate the applicant or registrant ~~each applicant or~~
9 ~~registrant who submits to the department an application for registration or~~
10 ~~registration renewal under this section, together with the applicable registration or~~
11 ~~registration renewal fee,~~ to determine whether the applicant or registrant is
12 qualified for registration or for renewal registration. Except as provided in s. 440.12
13 and 440.13, the department shall issue a registration or renewal registration if, after
14 completing the investigation, the department determines that the applicant or
15 registrant meets the requirements under this chapter and rules promulgated under
16 s. 461.06 for issuance or renewal of a registration and is satisfied that the applicant
17 or registrant will comply with this chapter and those rules.

18 **SECTION 14.** 461.04 (1) (intro.) of the statutes, as created by 2007 Wisconsin Act
19 189, is amended to read:

20 461.04 **(1)** PROFESSIONAL EMPLOYER SERVICES ORGANIZATION AND PROFESSIONAL
21 EMPLOYER GROUP NOT INSURANCE. (intro.) A professional employer organization or
22 professional employer group that offers, markets, sells, administers, or provides
23 professional employer services that include the provision of employee benefit plans
24 for the employees of the professional employer organization or professional employer
25 group performing services for a client is not engaged in the business or sale of

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1 insurance or in the business of an employee benefit plan administrator under ch. 633.
2 This subsection shall be liberally construed to permit professional employer
3 organizations and professional employer groups to provide employee benefit plans
4 as provided in this subsection without being considered to be engaged in the business
5 or sale of insurance or in the business of an employee benefit plan administrator
6 under ch. 633. If a professional employer organization or professional employer
7 group provides life insurance, health care, or disability income benefits for its
8 employees performing services for a client, all of the following apply:

9 **SECTION 15. Effective date.**

10 (1) This act takes effect on July 1, 2009, or on the day after publication,
11 whichever is later.

12 (END)